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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 23rd November, 1987:—

BILL NO. 116 OF 1987

A Bill to provide for the establishment of a Railway Claims Tribunal for inquiring into and determining claims against a railway administration for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to it to be carried by railway or for the refund of fares or freight or for compensation for death or injury to passengers occurring as a result of railway accidents and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. (*1*) This Act may be called the Railway Claims Tribunal Act, 1987.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "application" means an application made under section 16;

(*b*) "appointed day" means the date with effect from which the Claims Tribunal is established under section 3;

(*c*) "Bench" means a Bench of the Claims Tribunal;

(*d*) "Chairman" means the Chairman of the Claims Tribunal;

(*e*) "Claims Tribunal" means the Railway Claims Tribunal established under section 3;

(*f*) "Judicial Member" means a Member of the Claims Tribunal appointed as such under this Act, and includes the Chairman or Vice-Chairman who possesses any of the qualifications specified in sub-section (*3*) of section 5;

(*g*) "Member" means a Member (whether Judicial or Technical) of the Claims Tribunal, and includes the Chairman and Vice-Chairman;

(*h*) "notification" means a notification published in the Official Gazette;

(*i*) "prescribed" means prescribed by rules;

(*j*) "Railways Act" means the Indian Railways Act, 1890; 9 of 1890.

(*k*) "rules" means rules made under this Act;

(*l*) "Technical Member" means a Member of the Claims Tribunal who is not a Judicial Member, and includes the Chairman or a Vice-Chairman who possesses any of the qualifications specified in sub-section (*4*) of section 5;

(*m*) "Vice-Chairman" means a Vice-Chairman of the Claims Tribunal.

Explanation.—References to the Vice-Chairman in this Act shall be construed as references to each of the Vice-Chairmen;

(*n*) words and expressions used and not defined in this Act but defined in the Railways Act or the rules made thereunder shall have the meanings respectively assigned to them in that Act or the said rules.

CHAPTER II

ESTABLISHMENT OF RAILWAY CLAIMS TRIBUNAL AND BENCHES THEREOF

Establishment of Railway claims Tribunal.

3. The Central Government shall, by notification, establish a Claims Tribunal, to be known as the Railway Claims Tribunal, to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

Composition of claims Tribunal and Benches thereof.

4. (*1*) The Claims Tribunal shall consist of a Chairman, four Vice-Chairmen and such number of Judicial Members and Technical Members as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Claims Tribunal may be exercised by Benches thereof.

(*2*) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Technical Member.

(*3*) Notwithstanding anything contained in sub-section (*1*), the Chairman—

(*a*) may, in addition to discharging the functions of the Judicial Member or the Technical Member of the Bench to which he is

appointed, discharge the functions of the Judicial Member or, as the case may be, the Technical Member, of any other Bench;

(*b*) may transfer a Vice-Chairman or other Member from one Bench to another Bench;

(*c*) may authorise the Vice-Chairman or the Judicial Member or the Technical Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, the Judicial Member or the Technical Member of another Bench.

(*4*) Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the Chairman or any other Member authorised by the Chairman in this behalf to function as a Bench consisting of a single Member and exercise the jurisdiction, powers and authority of the Claims Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may, by general or special order, specify:

Provided that if at any stage of the hearing of any such case or matter, it appears to the Chairman or such Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairman or, as the case may be, referred to him for transfer, to such Bench as the Chairman may deem fit.

(*5*) Subject to the other provisions of this Act, the Benches shall sit at such places as the Central Government may, by notification, specify.

Qualifications for appointment as Chairman, Vice-Chairman or other Member.

5. (*1*) A person shall not be qualified for appointment as the Chairman unless he—

(*a*) is, or has been, a Judge of a High Court; or

(*b*) has, for at least two years, held the office of a Vice-Chairman.

(*2*) A person shall not be qualified for appointment as the Vice-Chairman unless he—

(*a*) is, or has been, or is qualified to be, a Judge of a High Court; or

(*b*) has been a member of the Indian Legal Service and has held a post in Grade I of that Service or any higher post for at least five years; or

(*c*) has, for at least five years, held a civil judicial post carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India; or

(*d*) has, for at least five years, held a post under a railway administration carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India and has adequate knowledge of rules and procedure of, and experience in, claims and commercial matters relating to railways; or

(*e*) has, for a period of not less than three years, held office as a Judicial Member or a Technical Member.

(*3*) A person shall not be qualified for appointment as a Judicial Member unless he—

(*a*) is, or has been, or is qualified to be, a Judge of a High Court; or

(*b*) has been a Member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years; or

(*c*) has, for at least three years, held a civil judicial post carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India.

(*4*) A person shall not be qualified for appointment as a Technical Member unless he has, for at least three years, held a post under a railway administration carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India and has adequate knowledge of rules and procedure of, and experience in, claims and commercial matters relating to railways.

(*5*) Subject to the provisions of sub-section (*6*), the Chairman, Vice-Chairman and every other Member shall be appointed by the President.

(*6*) No appointment of a person as the Chairman shall be made except after consultation with the Chief Justice of India.

Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances.

6. (*1*) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, such one of the Vice-Chairmen as the Central Government may, by notification, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(*2*) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, such one of the Vice-Chairmen as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

Term of office.

7. The Chairman, Vice-Chairman or other Member shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,—

(*a*) in the case of the Chairman, the age of sixty-five years; and

(*b*) in the case of the Vice-Chairman or any other Member, the age of sixty-two years,

whichever is earlier.

Resignation and removal.

8. (*1*) The Chairman, Vice-Chairman or other Member may, by notice in writing under his hand addressed to the President, resign his office:

Provided that the Chairman, Vice-Chairman or other Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(*2*) The Chairman, Vice-Chairman or any other Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairman, Vice-Chairman or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairman, Vice-Chairman or other Member referred to in sub-section (2).

Salaries and allowances and other terms and conditions of service of Chairman, Vice-Chairman and other Members.

9. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairman, Vice-Chairman and other Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman, Vice-Chairman or other Member shall be varied to his disadvantage after his appointment.

Provision as to the holding of offices by Chairman, Vice-Chairman, etc., on ceasing to be such Chairman or Vice-Chairman, etc.

10. On ceasing to hold office—

(*a*) the Chairman of the Claims Tribunal shall be ineligible for further employment either under the Government of India or under the Government of a State;

(*b*) a Vice-Chairman shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman of the Claims Tribunal, or as the chairman, vice-chairman or member of any other Tribunal established under any law for the time being in force, but not for any other employment either under the Government of India or under the Government of a State;

(*c*) a Member (other than the Chairman or Vice-Chairman) shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman or Vice-Chairman or as the chairman, vice-chairman or member of any other Tribunal established under any law for the time being in force but not for any other employment either under the Government of India or under the Government of a State;

(*d*) the Chairman, Vice-Chairman or other Member shall not appear, act or plead before the Claims Tribunal.

Explanation.—For the purposes of this section, employment under the Government of India or under the Government of a State includes employment under any local or other authority within the territory of India or under the control of the Government of India or under any corporation or society owned or controlled by the Government.

Financial and administrative powers of Chairman.

11. The Chairman shall exercise such financial and administrative powers over the Benches as may be vested in him under the rules:

Provided that the Chairman shall have authority to delegate such of his financial and administrative powers as he may think fit to the Vice-Chairman or any other officer of the Claims Tribunal, subject to the condition that the Vice-Chairman or such officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairman.

Staff of Claims Tribunal.

12. (*1*) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Claims Tribunal in the discharge of its functions and provide the Claims Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of the Claims Tribunal shall discharge their functions under the general superintendence of the Chairman.

(3) The salaries and allowances and conditions of service of the officers and other employees of the Claims Tribunal shall be such as may be prescribed.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF CLAIMS TRIBUNAL

Jurisdiction, powers and authority of Claims Tribunal.

13. (1) The Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any civil court or a Claims Commissioner appointed under the provisions of the Railways Act,—

(a) relating to the responsibility of the railway administrations as carriers under Chapter VII of the Railways Act in respect of claims for—

(i) compensation for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to a railway administration for carriage by railway;

(ii) compensation payable under section 82A of the Railways Act or the rules made thereunder; and

(b) in respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway.

(2) The provisions of the Railways Act and the rules made thereunder shall, so far as may be, be applicable to the inquiring into or determining, any claims by the Claims Tribunal under this Act.

Distribution of business amongst Benches.

14. (1) Where any Benches are constituted, the Central Government may, from time to time, by notification, make provisions as to the distribution of the business of the Claims Tribunal amongst the Benches and specify the matters which may be dealt with by each Bench.

(2) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench, the decision of the Chairman shall be final.

Explanation.—For the removal of doubts, it is hereby declared that the expression "matters" includes an application under section 20.

Bar of jurisdiction.

15. On and from the appointed day, no court or other authority shall have, or be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in sub-section (1) of section 13.

CHAPTER IV

PROCEDURE

Application to Claims Tribunal.

16. (1) A person seeking any relief in respect of the matters referred to in sub-section (1) of section 13 may make an application to the Claims Tribunal.

(2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee in respect of the filing of such application and by such other fees for the service or execution of processes as may be prescribed:

Provided that no such fee shall be payable in respect of an application under sub-clause (*ii*) of clause (*a*) of sub-section (1) of section 13.

Limitation.

17. (1) The Claims Tribunal shall not admit an application for any claim—

(*a*) under sub-clause (*i*) of clause (*a*) of sub-section (1) of section 13 unless the application is made within three years from the date on which the goods in question were entrusted to the railway administration for carriage by railway;

(*b*) under sub-clause (*ii*) of clause (*a*) of sub-section (1) of section 13 unless the application is made within one year of occurrence of the accident;

(*c*) under clause (*b*) of sub-section (1) of section 13 unless the application is made within three years from the date on which the fare or freight is paid to the railway administration:

Provided that no application for any claim referred to in sub-clause (*i*) of clause (*a*) of sub-section (1) of section 13 shall be preferred to the Claims Tribunal until the expiration of three months next after the date on which the intimation of the claim has been preferred under section 78B of the Railways Act.

(2) Notwithstanding anything contained in sub-section (1), an application may be entertained after the period specified in sub-section (1) if the applicant satisfies the Claims Tribunal that he had sufficient cause for not making the application within such period.

Procedure and powers of Claims Tribunal.

5 of 1908.

18. (1) The Claims Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Claims Tribunal shall have powers to regulate its own procedure including the fixing of places and times of its enquiry.

(2) The Claims Tribunal shall decide every application as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents, written representations and affidavits and after hearing such oral arguments as may be advanced.

(3) The Claims Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

1 of 1872.

(*d*) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) reviewing its decisions;

(*g*) dismissing an application for default or deciding it *ex parte;*

(*h*) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

(*i*) any other matter which may be prescribed.

Right to legal representation and presenting officers.

19. (*1*) A person making an application to the Claims Tribunal may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Claims Tribunal.

(*2*) A railway administration may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised by it may present its case with respect to any application before the Claims Tribunal.

Power of Chairman to transfer cases from one Bench to another.

20. On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench.

Decision to be by majority.

21. If the Members of a Bench differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

Execution of orders of Claims Tribunal.

22. (*1*) An order made by the Claims Tribunal under this Act shall be executable by the Claims Tribunal as a decree of civil court and, for this purpose, the Claims Tribunal shall have all the powers of a civil court.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Claims Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

CHAPTER V

APPEALS

Appeals

23. (*1*) Save as provided in sub-section (*2*) and notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, an appeal shall lie from every order, not being an interlocutory order, of the Claims Tribunal, to the High Court having jurisdiction over the place where the Bench is located. 5 of 1908.

(*2*) No appeal shall lie from an order passed by the Claims Tribunal with the consent of the parties.

(*3*) Every appeal under this section shall be preferred within a period of ninety days from the date of the order appealed against.

CHAPTER VI

MISCELLANEOUS

Transfer of pending cases.

24. (*1*) Every suit, claim or other legal proceeding (other than an appeal) pending before any court, Claims Commissioner or other authority immediately before the appointed day, being a suit, claim or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after the appointed day, within the jurisdiction of the Claims Tribunal, shall stand transferred on that day to the Claims Tribunal.

(*2*) Where any suit, claim or other legal proceeding stands transferred from any court, Claims Commissioner or other authority to the Claims Tribunal under sub-section (*1*),—

(*a*) the court, Claims Commissioner or other authority shall, as soon as may be after such transfer, forward the records of such suit, claim or other legal proceeding to the Claims Tribunal;

(*b*) the Claims Tribunal may, on receipt of such records, proceed to deal with such suit, claim or other legal proceeding, so far as may be, in the same manner as an application, from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Claims Tribunal may deem fit.

Proceedings before Claims Tribunal to be judicial proceedings.

45 of 1860.

25. All proceedings before the Claims Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219, and 228 of the Indian Penal Code.

Members and staff of Claims Tribunal to be public servants.

45 of 1860.

26. The Chairman, Vice-Chairman and other Members and the officers and other employees of the Claims Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith.

27. No suit, prosecution or other legal proceedings shall lie against the Central Government or against the Chairman, Vice-Chairman or other Member, or any other person authorised by the Chairman, Vice-Chairman or other Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Act to have overriding effect.

28. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to remove difficulties.

29. (*1*) If any difficulty arises in giving effect to the provisions of his Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

30. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the procedure under sub-section (3) of section 8 for the investigation of misbehaviour or incapacity of the Chairman, Vice-Chairman or other Member;

(b) salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairman, Vice-Chairman and other Members under section 9;

(c) the financial and administrative powers which the Chairman may exercise over the Benches under section 11;

(d) the salaries and allowances and conditions of service of officers and other employees of the Claims Tribunal under sub-section (3) of section 12;

(e) the form of application, the documents and other evidence to be accompanied with such application and fee in respect of filing of such application and fee for the service or execution of processes under sub-section (2) of section 16;

(f) the rules subject to which the Claims Tribunal shall have power to regulate its own procedure under sub-section (1) of section 18 and the additional matters in which the Claims Tribunal may exercise powers of civil court unled clause (i) of sub-section (3) of that section;

(g) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

CHAPTER VII

AMENDMENTS TO THE RAILWAYS ACT

Amendment of section 3.

31. In section 3 of the Railways Act, after clause (*18*), the following clause shall be inserted, namely:—

'(*19*) "Claims Tribunal" means the Railway Claims Tribunal established under section 3 of the Railway Claims Tribunal Act, 1987.'.

Amendment of section 78A.

32. In section 78A of the Railways Act, for the word "suit", the words "application before the Claims Tribunal" shall be substituted.

Substitution of new section for section 80.

33. For section 80 of the Railways Act, the following section shall be substituted, namely:—

Application for compensation.

"80. An application to the Claims Tribunal for compensation for loss of the life of, or personal injury to, a passenger or for loss, destruction, damage, deterioration or non-delivery of animals or goods may be made,—

(*a*) if the passenger was, or the animals or goods were, booked from one station to another on the railway of the same railway administration, against that railway administration;

(*b*) if the passenger was, or the animals or goods were, booked through over the railway of two or more railway administrations, against the railway administration from which the passenger obtained his pass or purchased his ticket or to which the animals or goods were delivered for carriage, as the case may be, or against the railway administration on whose railway the destination station lies, or the loss, injury, destruction, damage or deterioration occurred.".

Omission of sections 82B, 82D and 82F.

34. Sections 82B, 82D and 82F of the Railways Act shall be omitted.

Amendment of section 82C.

35. In section 82C of the Railways Act,—

(*a*) in sub-section (*1*), for the words "Claims Commissioner", the words "Claims Tribunal" shall be substituted;

(b) sub-section (2) and the *Explanation* thereto shall be omitted.

Amendment of sections 82E, 82G and 82HH.

36. In sections 82E, 82G and 82HH of the Railways Act, for the words "Claims Commissioner", wherever they occur, the words "Claims Tribunal" shall be substituted.

Amendment of section 82I.

37. In section 82I of the Railways Act, for the words, figures and letters "sections 82A to 82HH", the words, figures and letters "sections 82A, 82C, 82E and 82G to 82HH" shall be substituted.

Amendment of section 82J.

38. In section 82J of the Railways Act,—

(*a*) in sub-section (*1*), for the words, figures and letters "sections 82A to 82H inclusive", the words, figures and letters "sections 82A, 82C, 82E, 82G and 82H" shall be substituted;

(*b*) in sub-section (*2*), clause (*i*) and clauses (*iv*) to (*vi*) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The substantive liability of the railway administration for loss, destruction, damage, non-delivery or deterioration of goods entrusted to them for carriage, and for death or injury, or loss, etc., to a passenger in a railway accident involving a passenger train is laid down in the Indian Railways Act, 1890. The consignors/consignees and passengers or their representatives prefer claims for compensation against the railway administration. Those who claim compensation for loss of, and damage to, booked goods and are not satisfied with the decisions of the railway administration, file suits in the Courts of Law. Claims for compensation for death of, or injury, or loss, etc., to passengers in train accidents are at present settled by Claims Commissioners.

2. As the litigation in the Courts of Law and before the Claims Commissioners is very protracted, it has been decided to set up a specialised Tribunal for speedy adjudication of such claims. The setting up of such a Claims Tribunal with Benches in different parts of the country, and with judicial and technical members, will provide much relief to the rail-users by way of expeditious payment of compensation to the victims of rail-accidents and to those whose goods are lost or damaged in rail transit. The Claims Tribunal will also expedite settlement of disputes regarding refund of fares and freight charges. It will reduce the burden on the various civil courts in the country, thereby giving them more time to decide other cases speedily.

3. The Bill seeks to give effect to the above objectives. The Bill also *inter alia* provides for—

(a) the jurisdiction, powers and authority which may be exercised by the Claims Tribunal;

(b) the procedure (including provisions as to limitation) to be followed by the Claims Tribunal;

(c) the exclusion of jurisdiction of all courts exercising ordinary original civil jurisdiction relating to specified claims for compensation and refund against the railway administration;

(d) the transfer to the Claims Tribunal of any suit or other proceeding, other than an appeal pending before any court or other authority immediately before the establishment of such Claims Tribunal as would have been within the jurisdiction of such Claims Tribunal if the cause of action on which such suits or proceedings are based had arisen after such establishment.

NEW DELHI;
The 30th October, 1987.

MADHAVRAO SCINDIA.

Notes on clauses

Clause 2.—This clause defines the various expressions occurring in the Bill.

Clause 3.—This clause provides for the establishment of the Railway Claims Tribunal by the Central Government.

Clause 4.—This clause provides for composition of the Claims Tribunal and Benches thereof. Provision has, however, been made for enabling the Chairman or any other Member of the Claims Tribunal authorised by the Chairman in this behalf to function as a Bench consisting of a single Member in respect of such class of cases or matters as the Chairman may, by order, specify.

Clause 5.—This clause makes detailed provisions regarding the qualifications to be fulfilled for appointment as the Chairman, Vice-Chairman or other Member.

Clause 6.—This clause indicates the circumstances under which a Vice-Chairman may act as the Chairman or discharge the functions of the Chairman.

Clause 7.—This clause fixes the tenure of the Chairman, Vice-Chairmen and other Members subject to a maximum age limit.

Clause 8.—This clause details the procedure for resignation or removal of the Chairman, Vice-Chairmen and other Members.

Clause 9.—This clause provides for framing of rules by the Central Government to regulate the salaries and allowances and other conditions of service of Chairman, Vice-Chairmen and other Members.

Clause 10.—This clause provides for certain restrictions on the further employment of the Chairman, Vice-Chairmen and other Members on their ceasing to hold office with a provision for further employment of a Member as Vice-Chairman/Chairman and the further employment of a Vice-Chairman as Chairman.

Clause 11.—This clause provides for framing of rules defining financial and administrative powers of the Chairman, with provision to enable the Chairman to delegate his powers to the Vice-Chairman or any officer of the Claims Tribunal.

Clause 12.—This clause provides that the Central Government shall provide the staff for the functioning of the Claims Tribunal. It empowers the Central Government to frame rules for regulating the salaries, allowances and other conditions of service of the staff.

Clause 13.—This clause defines the jurisdiction, powers and authority of the Claims Tribunal in regard to claims in respect of matters specified therein.

Clause 14.—This clause empowers the Central Government to make provisions, by notification, as to the distribution of business of the Claims Tribunal amongst the Benches and specify the matters which may be dealt with by each Bench.

Clause 15.—This clause provides for the exclusion of jurisdiction of all courts and authorities with regard to the matters mentioned in clause 13.

Clause 16.—This clause provides for making an application and payment of fee to the Claims Tribunal by an aggrieved person covered by this Act. This also empowers the Central Government to determine by rules the rate of fees.

Clause 17.—This clause provides for limitation on admission of applications from the aggrieved persons by the Claims Tribunal.

Clause 18.—This clause provides that the Claims Tribunal shall have the power to regulate its own procedure subject to the other provisions of this Act or of any rules made by the Central Government. It also invests the Claims Tribunal with various powers necessary for discharging its functions as are vested in a civil court.

Clause 19.—This clause provides for the aggrieved persons taking the assistance of a legal practitioner and the railway administration presenting its case through its presenting officer or legal practitioner.

Clause 20.—This clause defines the powers of the Chairman to transfer cases from one Bench to another Bench.

Clause 21.—This clause provides for decision by the majority of the Claims Tribunal and also prescribes the procedure to be followed when there is no majority.

Clause 22.—This clause indicates the manner in which orders of the Claims Tribunal may be executed.

Clause 23.—This clause provides for an appeal against an order of the Claims Tribunal to the High Court.

Clause 24.—This clause provides for the transfer to the Claims Tribunal of all cases, relating to claims specified in clause 13, pending before courts or authorities except appeal cases.

Clause 25.—This clause makes it clear that all proceedings before the Claims Tribunal shall be deemed to be judicial proceedings.

Clause 26.—This clause makes it clear that Members and staff of the Claims Tribunal shall be deemed to be public servants.

Clause 27.—This clause provides for protection of the Central Government or the Chairman, Vice-Chairmen or other Members in respect of anything done in good faith in pursuance of this Act.

Clause 28.—This clause is for giving overriding effect to the provisions of this legislation.

Clause 29.—This clause empowers the Central Government to make suitable provisions for removing any difficulty in giving effect to the provisions of this legislation.

Clause 30.—This clause provides for the making of rules by the Central Government with regard to the various matters specified therein and for laying of rules.

Clauses 31 *to* 38.—These clauses provide for certain consequential amendments to the Railways Act.

FINANCIAL MEMORANDUM

The Railway Claims Tribunal Bill, 1987 provides for the adjudication of claims against the railway administration in relation to compensation for death or personal injury to a passenger or for loss, destruction, non-delivery, etc., of goods entrusted to a railway administration for carriage, and refund of fares and over-charges on freight.

2. According to clause 4 of the Bill, the Claims Tribunal shall consist of a Chairman, four Vice-Chairmen and such number of Judicial and Technical Members as the Central Government may deem fit. Clause 9 provides that the salaries and allowances payable to the Chairman, Vice-Chairman and other Members shall be such as may be prescribed by the Central Government. Clause 12 provides that the Central Government shall determine the nature and categories of officers and other employees required to assist the Claims Tribunal in discharge of its functions and provide the Claims Tribunal with such officers and other employees as it may think fit. The salaries and allowances and conditions of service of the officers and other employees of the Claims Tribunal shall be prescribed by rules made by the Central Government. These are the provisions in the Bill which will have financial implications once it is enacted.

3. To start with, it is proposed to set up 19 Benches at such places as may be specified by the Central Government. It has also been proposed that the Benches may hold their sittings at different stations within their jurisdiction. The number of Benches required will be reviewed from time to time on the basis of workload and experience gained. The immediate requirements of the post of Chairman, Vice-Chairmen and Members for the proposed Claims Tribunal will be as indicated below:—

Sl. No.	*Name of the Post*	*No. of the Posts*	*Pay*
1.	Chairman	1	Rs. 8,000 fixed
2.	Vice-Chairman	4	Rs. 7,300—7,600
3.	Member	33	Rs. 7,300—7,600

4. For their efficient functioning, the Claims Tribunal and Benches thereof will require adequate supporting staff. It is not possible to indicate precisely at this stage the exact number and the categories of staff required for different Benches of the Claims Tribunal. Expenditure will also be incurred on rent for hired accommodation, acquisition of furniture and fittings, office equipment like typewriters, almarahs, filing cabinets, duplicating machines, etc. On a rough estimate the recurring expenditure is expected to be of the order of Rs. 138 lakhs per year. This expenditure will be partly met by some savings in litigation expenses, travelling expenses, costs incurred on appointment of *ad hoc* Claims Commissioners, etc. Some additional revenue will also accrue by way of fees payable by the claimants at the time of filing application to the Claims Tribunal, as provided in clause 16 of the Bill. The net

recurring expenditure is estimated at Rs. 23 lakhs per annum. To start with, the non-recurring expenditure is expected to be of the order of Rs. 40 lakhs.

5. It may be stated that though the setting up of the Claims Tribunal involves additional expenditure from the Consolidated Fund of India, the Claims Tribunal is expected to go a long way in reducing the burden on the courts and providing an exclusive and permanent forum for speedy disposal of claims of rail-users against railway administration.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 29 empowers the Central Government to issue orders for removal of any difficulty which may arise in giving effect to any provision of the Bill and further provides that every order so made shall be laid before each House of Parliament.

2. Sub-clause (1) of clause 30 empowers the Central Government to make, by notification in the Official Gazette, rules to carry out the provisions of the Bill. The matters in relation to which such rules are to be made have been specified in sub-clause (2) of that clause. Such matters *inter alia* include the salaries and allowances payable to, and other terms and conditions of service of, the Chairman, Vice-Chairmen and other Members, officers and other employees of the Claims Tribunal; the manner in which the procedure of the Claims Tribunal shall be regulated; the financial and administrative powers which the Chairman shall exercise over the Benches; the form of application to be made to the claims Tribunal and the fee to be accompanied therewith and additional matters in relation to which the Claims Tribunal may exercise the powers of a civil court.

3. Sub-clause (3) of clause 30 provides for laying of the rules made by the Central Government before each House of Parliament.

4. The matters in respect of which such orders and rules may be made are matters of detail and procedure. The delegation of the legislative powers is, therefore, of a normal character.

BILL No. 120 OF 1987

A Bill further to amend the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1987.

Amendment of section 6.

56 of 1971.

2. In the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 (hereinafter referred to as the principal Act), in section 6,—

(a) in sub-sections (6A) and (6B), the provisos shall be omitted, and shall be deemed to have been omitted with effect from the 1st day of January, 1986;

(*b*) after sub-section (*6B*), the following sub-section shall be inserted, namely:—

"(6C) Notwithstanding anything contained in the foregoing provisions of this section, a person who demits office [whether

in any manner specified in sub-section (8) or by resignation] as the Comptroller and Auditor-General after the commencement of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1987, shall, on such demission, be entitled to—

(a) a pension which is equal to the pension payable to a Judge of the Supreme Court,—

(i) if such person is a person referred to in sub-section (*1*) or sub-section (3), in accordance with the provisions of Part III of the Schedule to the Supreme Court Judges (Conditions of Service) Act, 1958 (hereafter in this Act referred to as the Supreme Court Judges Act), as amended from time to time; and 41 of 1958.

(ii) if such person is a person referred to in sub-section (4), in accordance with the provisions of Part I of the Schedule to the Supreme Court Judges Act, as amended from time to time;

(b) such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of Supreme Court under the Supreme Court Judges Act and the rules made thereunder, as amended from time to time.

Omission of section 7.

3. Section 7 of the principal Act shall be omitted.

Amendment of section 9

4. In section 9 of the principal Act, for the opening paragraph, the following shall be substituted, namely:—

"Save as otherwise provided in this Act, the conditions of service relating to travelling allowance, provision of rent-free residence and exemption from payment of income-tax on the value of such rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and such other conditions of service as are for the time being applicable to a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges Act, and the rules made thereunder, shall, so far as may be, apply to a serving or retired Comptroller and Auditor-General, as the case may be:".

STATEMENT OF OBJECTS AND REASONS

Article 148(1) of the Constitution provides that there be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court. Under clause (3) of the said article, the salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament by law. In pursuance of this provision, the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 was passed by Parliament in 1971. Under this Act, the Comptroller and Auditor-General is entitled to receive the same salary as a Judge of the Supreme Court while his other conditions of service relating to pension, contribution to provident fund, etc., have been determined by the provisions of that Act.

2. The Constitution has given great importance to the office of the Comptroller and Auditor-General. There is parity of status between the Comptroller and Auditor-General and the Supreme Court Judge in many cases. The status of the office of the Comptroller and Auditor-General is unique in our federal set up, he being a common functionary for both the Union and the States. It is, therefore, necessary and proper that the Comptroller and Auditor-General is given the same conditions of service and facilities as are provided to a Judge of the Supreme Court other than the tenure and the leave facilities.

3. The Bill seeks to achieve the above objects.

NEW DELHI:
The 12th November, 1987.

N. D. TIWARI.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend section 6 of the Act by omitting the provisos to sub-sections (6A) and (6B) with effect from the 1st January, 1986 and also to insert a new sub-section (6C) therein. The effect of the omission of the provisos is to remove the ceiling of the maximum pension of Rs. 20,400 per annum in respect of pension payable with effect from 1-1-1986 to a Comptroller and Auditor-General who has retired after the commencement of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984. The new sub-section (6C) seeks to extend the pensionary benefits as admissible to a Judge of the Supreme Court under the Supreme Court Judges (Conditions of Service) Act, 1958 to a Comptroller and Auditor-General on retirement. The maximum pension payable to a retired Judge of the Supreme Court as provided in that Act is presently Rs. 54,000 per annum. The omission of the ceiling of Rs. 20,400 from 1-1-1986 is estimated to involve an additional expenditure of Rs. 24,900 per annum in respect of one Comptroller and Auditor-General who has retired and is surviving. A Comptroller and Auditor-General who retires after the commencement of the proposed amendment will become entitled to a maximum additional pension of Rs. 33,600 per annum.

Clause 4 of the Bill seeks to extend certain other conditions of service admissible to a Judge of the Supreme Court (other than leave and tenure) such as rent-free accommodation, free furniture at residence, electricity and water charges, staff car, sumptuary allowance, etc., to the Comptroller and Auditor-General. The additional recurring expenditure on these perquisites is estimated to be Rs. 30,000 per annum and the additional non-recurring expenditure is estimated to be Rs. 38,500. The other conditions of service which are now extended to the Comptroller and Auditor-General will also include leave travel concession as admissible to a Judge of the Supreme Court. It is, however, not possible to quantify the exact additional expenditure involved on this account at this stage.

The Bill will not involve any other expenditure, either recurring or non-recurring.

SUBHASH C. KASHYAP,
Secretary-General.

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